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Federal Communications Commission
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Notice of Inquiry Closed Captioning and Video Description - MM Docket 95-176

When I could hear I listened to the words on radio or television but now that I'm deaf I read the words instead. Unfortunately, I am now invisible to large segments of the television broadcast, cable and video production industry, a "non-person", someone who doesn't even exist for them. It's like I just disappeared from their screen, yet I'm still here, the same person who votes, pays taxes, volunteers in my community, looks after my family, shops, loves movies, subscribes to cable, rents and buys videos. My family and friends still want to include me when they go to the movies, watch television or a video but now that is often impossible - the industry has decided that people like me don't need to do that, what we want doesn't count anymore.

Why are television, cable and video producers and providers the only businesses that do not have to make their products and services accessible to people with disabilities? Some people walk through a doorway and some roll through in their wheelchairs but the law requires that both have access. Most people can listen to the dialog but millions of Americans need to read the words and yet we have very limited access to what is available. If every restaurant in the country has to have a restroom that is accessible to wheelchair users then why doesn't the law require that people with a hearing loss have access to the information and entertainment offered on television, cable and video? Would we think it fair if the only restaurant in town was a buffet of the "one price/all you can eat" variety but wheelchair users could only reach one small corner of the buffet and nobody was available to bring the food to them? That's the way it is for cable subscribers who depend on captions. We are forced to pay for the whole thing even though only a small selection is available with captioning.

For millions of Americans closed captions are the equivalent of sound. All this fuss about who should caption, who should pay, when should it be required, what happens to the captioning rights etc is a waste of time. It is very simple. If a program, broadcast, or video has dialog then it should be captioned and the captions should be treated with the same respect and consideration as the sound. If the producers add sound to their product then they should also add captions and they should be the same high quality. The sound stays with the product wherever it goes and so should the captions. If you sell it with the sound then you sell it with the captions.

With some honorable exceptions, most television, cable and video providers know little and care less about whether their product is captioned. The video guides, sales brochures, advertisements etc seldom say if it is captioned. If you call up they still don't know. Last

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week I called Showtime to find out how many of their movies are captioned and they told me to just tell my local cable provider that I need captions and then CableVision would caption every movie for me! People who depend on captions spend an incredible amount of time playing detective, but even after we track down the product we can never be sure it actually is captioned until we switch on our TV or VCR. Even then the captions are often garbled or may disappear completely part way through. If they did this with the sound there would be a national outcry.

A couple of examples will show you what it's like to depend on captions. As a member of the Eastern Loudoun Regional Library Advisory Board, I've spent many hours trying to find videos that we can buy and donate to the library system. The library will only accept non-fiction videos that are recommended by professional journals or movies that get at least three stars in a video guide. None of the video guides tell you if a movie is captioned and the magazines and journals seldom mention captioning, probably because less than 10% of non-fiction videos are captioned even though their biggest market is schools and libraries that buy with tax-payer money. To make a very long story short, after countless hours of research I've come up with a list of videos that are supposed to be captioned but we still don't know where we can purchase them or whether they will actually have the captions. Is this any way to run a business?

The X-Files is one of my favorite shows but now I try not to get too interested in an upcoming episode because I never know whether the captions will be readable, slightly garbled or so messed up that you cannot even tell which language they are in. When I sit down at 9 pm on Friday nights I don't know whether I will be able to watch the show or whether I will have to switch to something else. My local Fox station tells me they are having problems synchronizing with the "feed" so all shows that are broadcast from California have problems with the captions. The program looks and sounds fine - only the captions are messed up. They keep telling me that their engineers are working on this "daily" but after four months they still cannot fix it. Is this acceptable? If the sound was messed up do you think it would have dragged on this long?

CableVision of Loudoun tells me that they just spent "hundreds of thousands" on new broadcasting equipment for their 5 minute program run at the end of CNN's Headline News but they still do not have the capability to broadcast captions. They refuse to buy this equipment saying it's not a good business decision since only a few of their customers rely on captions. How do they know this? Do they know how many people refuse to pay for cable because it has so little captioning? Headline News is often captioned but when the local segment comes on then I have no access to the news about my own community. It's like having a door slammed in your face or being kicked off the bus because they don't have room for people like me.

C-Span has some captioning but only for debates or votes in the House and Senate Chambers. Special committees, hearings, press conferences etc are not captioned. January 5, 1996, C-Span's Washington Journal had a two hour program on the telecommunications legislation. I wanted to watch but of course it was not captioned. However, on the CableVision Guide C-Span is shown as being captioned all the time.

During the recent Snow Emergency the three network affiliates did a pretty good job of captioning their Snow News but one recurring problem must be corrected. Legislation to regulate this is needed since it also happens at election time or whenever they want to interrupt a program with special news. During the snow blizzard they would move the program to a smaller picture while they ran information about school closings and such. The captions for the main program then disappeared. Often this ran for more than five minutes since practically everything in the entire Metro area was closed. Channel 4 the NBC affiliate did a better job of keeping the captions at the bottom of the screen and running the closings at the top. The CBS and ABC affiliates don't do this. Do they even realize that they lose the captions when they do this? Does anybody monitor what happens to the captions?

III. Public Interest Benefits

11. As our population ages, the market will definitely increase. Now I meet older people who tell me how much they like their new TV that "has the words on the bottom." They have never heard of closed captioning, don't consider themselves disabled or even in need of a hearing aid, but they do like the fact that the captions are there if they miss a few words.

12. My husband and son like to turn off the sound and listen to music while they watch sports. I know hearing people who watch the captions while they talk on the phone. Many bars use the captions and while they have obvious advantages for airport terminals, hotel lobbies and waiting rooms but I have yet to see them in use at any of these places.

IV. Availability of Closed Captioning and Video Description

13. These figures seem accurate to me.

14. I discovered captioning 9 years ago and have subscribed to cable for about 4 years. The amount of captioning has slowly increased but growth seems to have reached a standstill. There has been little improvement in the last couple of years.

Broadcast networks - virtually 100% of prime time except when an affiliate preempts for a local show or to run a movie. Weekend afternoons have many movies and programs that are not captioned.

Basic cable - USA, Sci-Fi, CNN have improved and use their own funds to do some captioning. AMC has some movies that are captioned but the information in their guide is not accurate and often the only way you know that the movie is captioned is when you come across it while flipping through the channels. Then you have to make a note to watch it next time around but even then you have no guarantee because the next time it may appear without captions. This channel is one of the main reasons I get cable since I love classic movies and often this is the first time in my life that I've had the chance to see them with captions. I also love the Classic TV on Nickelodeon. I feel like I'm catching up with the rest of the world because I finally got to see I Love Lucy and Mary Tyler Moore. The Family Network seems to do some captioning but I

have had no luck with reruns of the Bob Newhart Show which shows the NCI logo every time even though the captions are ALWAYS either missing or so messed up you cannot understand anything - and I'm pretty good at deciphering messed up captions (lots of experience from the X-Files). The captioning on A&E's new Pride and Prejudice series is funded by the Dept of Education and the network, the first time that A&E has paid for any captioning. The only other show they have with captions is The Rockford Files with captions funded by the Department of Education. Many channels have no captioning at all. Court TV never has captions not even during the OJ trial which was captioned on virtually every other network. Discovery and TLC have maybe one captioned show a day but you never know which it is because the guide does not tell you. Lack of information is a problem with all the cable channels. I could go on for ever but this will give you some idea of what it's like.

Premium Cable. I dropped HBO because I was tired of paying for movies I could not watch and the other channels do even less. It's especially annoying when the movie in question is available on video with captions but they didn't bother to get that version.

Syndicated programming. This is a problem that should not happen. When a program had captions on the network why are they allowed to show it in syndication without the captions? This has happened to many of my favorite shows such as Cagney & Lacey, St Elsewhere, Law & Order. Why is the original Star Trek series never shown on TV with captions. After years of letter writing Paramount gave in and captioned the videos sold in stores but they never use the captioned videos for TV broadcast. Are they trying to force us deaf Trekkies to buy every video? Paramount has made a fortune out of Star Trek so how about giving some of it back?

Locally-produced programming. Very little captioning except for some local news. It's especially annoying when local programming preempts a national show that is captioned.

Local and national public television programming. Most of the national PBS shows are captioned. Local programming is an entirely different situation. After years of supporting WETA 26 I stopped sending in my money because they still do not caption most locally produced programs. I have called and written so many times I am sick of them. None of their British imports such as Monty Python, Are You Being Served, Eastenders are captioned. Every Saturday night they show movies without captions even though they know (because we have told them) that captioned versions are out there if they will only get them. At fundraising time most of the specials are not captioned, the pledge breaks are not captioned, no TTY phone numbers to call in (they do have one in the office which makes them and Channel 4 the only local stations with TTYs). This means that when I watch Mystery or Masterpiece Theater at fundraising time I get shut out when their special guests appear. Do they think deaf people don't have any money or that we won't support the station? Why are they allowed to use tax payers money for shows that are not accessible? I should tell you that I wrote to Congress and the Washington Post in support of PBS funding because it is still my favorite network.

Money is the main reason for the lack of captioning but in many cases I suspect they simply never thought about it or don't know how many people have a hearing loss. Because hearing loss is invisible we simply don't exist for them. Advertisers are smarter so the percentage of commercials with captions is higher. I suspect that many producers think that captioning is much more expensive than it actually is because they never really checked it out. It costs the

same to caption a local show as it does to caption one for national audiences but the number of viewers with a hearing loss will naturally be smaller. CableVision of Loudoun told me they have no idea of how many viewers need captions but they assume it is a small number so it is not a good business decision to spend money on captioning. Does anybody monitor how many wheelchair users go up a ramp or into a restroom? Why do we have to continually prove that we exist and that we still need captions? Why don't they just do it and quit with all the excuses. Wouldn't it be worth it to increase their potential audience by 10%?

I assume that the 4% for basic cable includes captioned broadcast programming. Many cable channels have zero captioning. Many have only one or two shows a day with captions. Even the best (USA, Lifetime, Nickelodeon) have less than 20%. Some of the shows that are supposed to be captioned are not or the captions are unreadable.

Home videos. Most of the new blockbuster movies are captioned but every month most of the classics, TV series videos, educational, cultural videos come out without captions. Recently I spent two hours in my local Blockbuster with a list of all the movies captioned by NCI 1980 through 1994. Most of the movies were not in the store and many of those I did find were old copies bought before the captioned version was available. They could replace them for well under \$20 but they refuse to do so "because everyone has seen them." The manager was good enough to check them through their VCR/Decoder and we found two with captions even though the box was not marked - Cleopatra and Monty Python Volume 18. Most people don't have this guide and who can take two hours every time you want to rent a video? Who has the physical and mental stamina to take this kind of rejection when all you want is to relax and watch a movie? I picked a quiet afternoon but what if it was Saturday night? Do you think the store would have the time to check them for me?

Program Type. Children's shows are more likely to be captioned even though hearing loss affects a much higher percentage of adults and these kids will still be deaf when they grow up. I don't know of any public access programming anywhere in the country that is captioned but it's possible that some local governments are providing funds for this. Loudoun CableVision refuses to do it because of the cost.

Previously Published Programming. Less likely to be captioned than new material. Network affiliates often rerun movies on weekend afternoons that are not captioned even when the version in the video stores is captioned. Christmas specials shown every year may be captioned on one channel but not on another. Channel 32 a PBS station in Washington DC often reruns PBS shows without their captions even when they were shown the week before on Channel 26 with captions. There has been very little improvement in this area.

Market Size. Cable channels use this as an excuse not to caption even when they are actually part of much larger organization. A&E tells me they are a small operation that cannot afford to do captioning but according to the Washington Post they reach 65 million homes, sell millions of videos (none of them captioned) and they are owned by Hearst Corporation, Capital Cities/ABC

and NBC, and they work with CBS News. Excuse me for not believing this excuse. Discover and The Learning Channel are rapidly expanding into the home video market but still don't pay for any captioning.

V. Cost of Closed Captioning.

18. I have been told by NCI and the Caption Center that costs have come down considerably because of competition and new technology. For a pre-recorded movie or program where there is plenty of time to complete the project, the cost can be less than \$1,000 per hour. For something with complicated dialog such as a Shakespeare play the cost will be higher. The companies will charge more if it's a rush job that the network left to the last minute. Caption Reporters Inc in Washington DC charges \$13 per minute for basic, pre-recorded captioning. Live or real-time captioning is more expensive because captioners cannot work non-stop without a break but at the same time we do not expect the captioning to be as mistake free.

20. Funding of Closed Captioning. The Federal Government is funding too many programs. There is no reason why the major networks cannot pay for their own captioning. Most of the major program producers can easily afford to pay for captioning - they should not expect donations from groups such as NCI's Caption Club. Captions should be paid for by the program producer. The small cost can be included in their regular expenses and passed on when they sell the product. PBS and CPB should ask their sponsors to include money for the captioning. Businesses get tax incentives to help them make their premises and services accessible. Television, cable and video providers should be required to provide access to their services and also be eligible for these same incentives.

21. The Department of Education should concentrate on encouraging the smaller companies by providing part of the funding for a year or two with the understanding that they will then take over the full cost. The funding cuts for public television will not be good for people who depend on captioning but public television stations and CPB must caption their programs. Since they receive public money and donations we hold them to a higher standard. If they cannot afford to pay for captioning then they should not make the program - it's not fair to shut us out. When they lease or purchase programs from another source they should seek material that is captioned or use some of their own funding.

VI. Market Incentives.

22. Closed Captioning. Most commercials are captioned so advertisers know it pays but program producers seem slower to get the message.

23. Market forces are not given a fair chance. Most educational or cultural non-fiction videos are sold to schools and libraries and few if any people with a hearing loss have a say in these purchases. I serve on the advisory board for the Eastern Loudoun Regional Library so I know how difficult it is to track down videos that are captioned. The catalogs, reviews etc

usually don't bother to include this information. The library goes through a lengthy process to evaluate and choose since the video budget is very small. When they call the supplier they always ask if the video is captioned. Unfortunately, if the supplier says no the library still goes ahead and orders the video because they don't have the time or personnel to go back to square one and start all over again in the selection process. How many video store buyers are deaf? Very few I should imagine. Many deaf people are shy about making a fuss in the store especially if they communicate through sign language. How many deaf people are employed in broadcast or cable TV? How many deaf people sit on the boards of public television stations? Do deaf people get a chance to participate at fund raising time? How many PBS employees have a hearing loss? Does CPB have any deaf or hard-of-hearing board members or employees?

VII. Mandatory Captioning Requirements.

Mandatory requirements are necessary because years of effort to encourage voluntary captioning have not been successful. The increase over 20 years has been quite small and seems to have slowed down considerably in the past few years. When I ask producers why they don't caption they tell me it's too expensive. When I then ask how much it costs, they either have no idea at all or give some wildly erroneous figure such as \$10,000 per hour. A lot of education is needed.

27: Application of mandatory requirements. As I stated at the beginning of my letter, the producer should provide the captioning and pay the cost, just like they do with the sound. It should be a part of the basic cost of the program. Programs from overseas have to be formatted for our television system so we could require that captioning be done at the same time. Most shows on British TV, especially BBC 1 and 2, are captioned but in the teletext mode. Maybe they could provide these computer generated captions along with the programs that they sell to the US. It might be easier than doing the captioning from scratch. Yes, mandatory requirements should be imposed on "entities that produce or distribute programming that is aired on television." Perhaps both providers and producers should be subject to mandatory requirements or whatever it will take to get the job done.

28. Exemptions. We need strong requirements. The television or video provider or owner must prove "undue burden" before they are allowed an exemption. The television industry is quite capable of providing the time and money needed but so far it has not been a priority.

29. So far the "burden" has been on people who depend on captions. We spend hours tracking down captioned videos and programs, especially on cable. We pay the full fee while having access to a tiny percentage of the programs on cable. However, I realize the wide variety of producers and providers and the differences in resources. If a television episode or movie costs \$1,000,000 to produce they cannot argue that captioning is too expensive, especially when the video version will sell thousands of copies. Exemptions should only be granted if they can prove undue burden. No category should be automatically exempt. They must show that the cost of captioning is an undue burden on their entire operation. Captioning might be a relatively large percentage of the costs for one specific program but the company has ample resources. If captioning is a large percentage of their company costs then they might get an exemption.

Public access channels on cable are the most likely to have difficulty finding funds for captioning. Perhaps it could be made part of their franchise agreement and the costs factored into their monthly charges. Loudoun CableVision has about 30,000 subscribers. 25 cents a month on each bill would generate \$7,500 a month which would pay for some captioning. At Board of Supervisors meetings they could use real time captioning to provide access during the meeting and captions for the broadcast so that people at home could follow the meetings. They broadcast the meetings live and repeat them a couple of times later in the week. In Virginia every phone bill has a 10 cent charge every month to pay for the Relay Service. A small amount paid by a lot of people soon adds up and it is the fairest way to do it. All these years deaf and hard-of-hearing people have been paying for sound that they cannot hear. We pay for the sound system in TV sets, the sound on the programs and videos. So don't tell me that hearing people should not have to pay for captioning. If they live long enough they may need it themselves one day.

31. If a program has dialog then it should have captions. PBS Dance in America has a bit of talking and a lot of dance but they never caption the few words. Ballet is one thing I can still enjoy and I would like to be included in the introductory remarks or dancer interviews. A exemption might be made for orchestral music. However, most hard-of-hearing and some deaf people can still hear music if we turn up the sound but we cannot distinguish the words. If they can provide English translations for operas then they can to provide the words for songs sung in English. It's annoying to see the rush to provide translations for opera lovers when nobody thinks about those of us who cannot hear the words in any language.

What do you mean by an exemption "where providing this service would be inconsistent with an existing contract"? What if the contract has another 10 years to run?

33. The accuracy of captioning varies widely. With live captioning we expect mistakes but there should be some minimum standard. At first we were just grateful for being able to watch the Oscars or the Olympics but by now there should be an improvement. The biggest problem seems to be with numbers. I can never be sure if 3 people were killed, 30 or 300. There is no excuse for problems with prerecorded material such as videos. The producer should make sure the captioner has enough time to get it right. The same applies to broadcast TV but I hear that often the captioner gets the program at the very last minute. Sometimes you can tell that the producer made some last minute changes because the new part is not captioned. Some broadcasters start switching over just before it's time for local news broadcasts and then the captions disappear. This means you watch a movie for two hours and then never get to know what happened in the final five minutes. PBS stations do this often when they are fund raising.

Movie producers should insist that captions be verbatim. The captioner should not decide what I need to know. I don't want the words "dumbed down" to simpler English. It's annoying when the caption company decides that deaf people do not have good English skills. That is not their job or decision to make. They should concentrate on doing the captions as accurately as possible. I want words spelled out the way the person spoke so I get the full flavor of the dialog. The only exception might be movies where people speak an obscure dialect.

34. Transition. This is tricky since I want everything captioned yesterday but you might start by saying that all news programs should be captioned, then all national programming. Rule that captions must stay with the program or movie. Immediately insist that syndicated shows keep their captions. Require the captioned version of movies when they are already available. PBS reruns should be the captioned version. If a movie or program was captioned on TV then it should be captioned on the video. The premium movie channels should be required to show the version that is captioned - that should cost them nothing since it has already been done.

35. Advertising would help. Get some of us on the talk shows or news broadcasts telling how captioning has changed our lives. If we start to apply the disability laws to captioning - our equivalent of wheel chair ramps and accessible bathrooms, then the same tax treatment could be used to help these businesses make their services accessible.

36. Legal Authority. The Communication Act of 1934 says, in part, "to make available as far as possible, to all the people of the United States a rapid, efficient, nation-wide and world-wide wire and radio (television) communications service....." Isn't it time to include Americans who have a hearing loss? Having a hearing loss shouldn't mean that you no longer count as a member of our society.

Becoming deaf was a grievous loss but what hurts the most is becoming a "non-person", someone who is invisible, who doesn't count, whose needs are not considered. I'm still here and I want a chance to watch anything and everything on television, cable and video - just like the rest of you!

Sincerely,


Joan Cassidy
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